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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

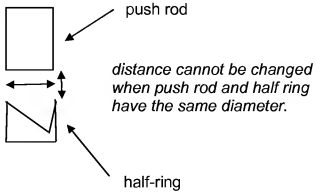
Response to Arguments

1. Applicant argues that the instant claims teach a device in which the puncture force is adjusted without adjusting the drive spring. Applicant further argues that modifying the length of the spring of Rutynowski would not enable the adjusting of the puncturing force at all. These arguments have been considered but have not been deemed persuasive.

In regards to the Applicant's argument that the instant claims teach a device in which the puncture force is adjusted without adjusting the drive spring, the Examiner respectfully traverses. First, the Examiner notes that Applicant has spent a large part of the instant Remarks practically relating the Applicant's own drawings to the claim language almost as if the Applicant needed to convince him or her self of that the claims are enabled; however, this argument does nothing to address the substantive issue in the rejection. As shown at page 5 of the last Office action, Marshall discloses the claimed first, second, and third distances; wherein the puncturing force adjusting member 39 changes the second distance without changing the first distance (see illustration at page 5 of the last Office action). For example, in the last Office action, the Examiner pointed out that changing the second distance without changing the first distance as recited in the claim does not necessarily equate to changing to the second distance without changing the length of, or adjusting the drive spring. For example, just because the drive spring is disclosed as having a length equal to the first distance does not necessarily mean that changes in the length of the drive spring equates to changes in the length of the first distance or vice-versa. As such, the drive spring may be

adjusted without adjusting the first distance although "the drive spring has a length equal to the first distance." Similarly, the first distance may be adjusted without adjusting the drive spring although "the drive spring has a length equal to the first distance."

Moreover, upon further scrutiny, it appears that the instant disclosure is not enabled. For example, the Applicant's instant disclosure teaches a push rod 6 that presses on an oblique half-ring or stair-shaped member so as to adjust puncture force (see figs. 4 & 6 of the instant disclosure) such that the distance of the oblique half-ring member from the push rod is changed, thereby changing the force with which the puncture tip would pierce the skin (see par 0028 & 0030). As such, judging from figures 4 & 6, it is unclear how the distance between a flat shaped surface (i.e. from the push rod) can be changed by abutting said flat surface on an oblique half-ring or stair-shaped member when both the flat surface and the oblique half-ring or stair-shaped member are of the same diameter and/or without any corresponding structures as shown in fig. 3D of previously cited US 6,558,402 between structure 106 and 116. In essence, Applicant's disclosure shows the following geometry:



As such, absent any corresponding structures such as a corresponding oblique half ring on the push rod, the Examiner does not see how the distance between the push rod and half ring member can be changed given that the push and half-ring member are of the same or substantially the same diameter.

In regards to the Applicant's argument that modifying the length of the spring of Rutynowski would not enable the adjusting of the puncturing force at all, the Examiner respectfully traverses. First, the Examiner notes that this portion of the rejection addresses a modification on the device of "Rutynowski as modified by Marshall" (see pg. 6 of the last Office action); for example, Rutynowski already teaches a drive spring that spans the face of the push element to the piston (see fig. 1); in order, Rutynowski already teaches that the "the face of the push element and the piston are separated by first distance and the drive spring has a length equal to the first distance" (see fig. 1 of Rutynowski; see lines 9-10 of the instant claim 3). Thus, the Examiner's rejection essentially intend to make a case as why one of ordinary skill in the art, in the process of modifying Rutynowski, would want to leave the drive spring of Rutynowski in place while adding the desired puncture force adjuster of Marshall therein. As such, Applicant claim that it would not be useful to use a longer spring in Rutynowski is at essentially tantamount to saying that Rutynowski, which already teaches a long spring, does not need a long spring.

In view of the foregoing, the Applicant's request for reconsideration has been considered but fails to place the case in condition for allowance.